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GOTTLIEB RACKMAN & REISMAN PC			EXAMINER	
270 MADISON AVENUE			ELIFERVIG, TAYLOR A	
8TH FLOOR			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/585,483	<b>Applicant(s)</b> MEENTZEN ET AL.
	<b>Examiner</b> TAYLOR ELFERVIG	<b>Art Unit</b> 2445

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 March 2009.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 07 July 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-166/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Remarks***

1. This communication is considered fully responsive to the Amendment filed on 03/18/2009.

***Response to Arguments***

2. Applicant's arguments, see Remarks, filed 05/21/2008, with respect to the rejection(s) of claim(s) 1-14 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of U.S. Patent No. 6,058,102 to *Drysdale et al.* and U.S. Patent No. 6,725,255 B1 to *Hass et al.*

***Specification***

***Content of Specification***

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).

Art Unit: 2445

- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.
- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
- (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
  - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where

elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (l) Sequence Listing: See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.

- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-2, 7-11 and 13-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,725,255 B1 to Hass *et al.* ("Hass") in view of U.S. Patent No. 6,058,102 to Drysdale *et al.* ("Drysdale").

**As to claim 1,** Hass discloses a method of monitoring data exchange between application systems comprising the steps:

creating a reception control message from the second application system (14, recipient client; 20, client agent) after successful reception of the data packet by the second application system (14, recipient client; 20, client agent) (Fig. 1, col. 5 ll. 14-24, col. 6 ll. 5-7), and

outputting a monitoring message from the monitoring unit (18, server; 22, server agent) containing information as to whether the data packet was received by the second application system (14, recipient client; 20, client agent) successfully and within a predetermined transaction time (Fig. 1, col. 5 ll. 19-65).

In particular, *Hass* teaches a sender (12, sender client) and its agent (20, client agent) transmit data via a server (18, server) and its agent (22, server agent) to a recipient (14, recipient agent). The server calculates how long it should take to get a response from the recipient. If the server does not get an acknowledgment in that time then a notification is sent out. Also, *Hass* teaches that the recipient will notify the server if it does successfully receive the data then it will send a notice to the server.

*Drysdale* discloses what *Hass* does not expressly disclose.

*Drysdale* discloses:

transmitting a despatch control message from a first application system (Fig. 1, Probe A) to a separate monitoring unit (Fig. 1, Console, 16) after despatch of a data packet from the first application system (Fig. 1, Probe A) to a second application system (Fig. 1, Probe B) (col. 13 ll. 45-67, col. 14 ll. 1-5).

*Hass and Drysdale* are analogous arts because they are from the same field of endeavor with respect to monitoring data flow over a network.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate dispatching a control message to a monitoring unit after sending data to a second system as discussed in *Drysdale* within a method of monitoring data exchange between application systems as discussed in *Hass*. The suggestion/motivation would have been a need to monitor data transmission through a communications network (*Drysdale*, col. 1 ll. 19-21).

**As to claim 2,** *Hass* discloses characterized in that the first (12, sender client; 20, client agent) and second (14, recipient client; 20, client agent) application systems are not directly connected together but are indirectly connected together in particular by way of at least one further application system and/or transmission system (18, server; 22, server agent) (Fig. 1, Abstract, col. 4 19-67).

**As to claim 7,** *Hass* discloses characterized in that the reception control messages are transmitted from the second application system to the monitoring unit (col. 5 ll. 14-18).

**As to claim 8,** *Hass* discloses characterized in that the reception control messages are stored in the second application system and the monitoring unit periodically monitors the stored reception control messages (col. 5 ll. 14-38).

**As to claim 9,** *Hass* discloses characterized in that the monitoring message is transmitted to the first application system, a service provider connected to the first application system or a user of the first application system (col. 5 ll. 50-65).

**As to claim 10,** *Hass* discloses a monitoring system for monitoring the data exchange between application systems comprising:

a second application system (14, recipient client; 20, client agent) for creating a reception control message after successful reception of the data packet (Fig. 1, col. 5 ll. 14-124, col. 6 ll. 5-7), and

a monitoring unit (18, server; 22, server agent) for outputting a monitoring message containing information as to whether the data packet was received by the second application system (14, recipient client; 20, client agent) successfully and within a predetermined transaction time (Fig. 1, col. 5 ll. 19-65).

In particular, *Hass* teaches a sender (12, sender client) and its agent (20, client agent) transmit data via a server (18, server) and its agent (22, server agent) to a recipient (14, recipient agent). The server calculates how long it should take to get a response from the recipient. If the server does not receive a response within the expected time, it can conclude that the recipient is not available or has failed.

acknowledgment in that time then a notification is sent out. Also, *Hass* teaches that the recipient will notify the server if it does successfully receives the data then it will send a notice to the server.

*Drysdale* discloses what *Hass* does not expressly disclose.

*Drysdale* discloses:

a first application system (Fig. 1, Probe A) for transmitting a despatch control message to a separate monitoring unit (Fig. 1, Console, 16) after despatch of a data packet from the first application system (Fig. 1, Probe A) to a second application system (Fig. 1, Probe B) (col. 13 ll. 45-67, col. 14 ll. 1-5).

The obvious rejection and suggestion/motivation is the same as in claim 1.

**As to claim 11,** *Hass* discloses comprising:

a checking unit for checking a reception control message created by the second application system after successful reception of the data packet (col. 5 ll. 14-24),

a processing unit for checking whether the data packet was received by the second application system successfully and within a predetermined transaction time, on the basis of the despatch control message and reception control message and for creating a corresponding monitoring message (col. 5 ll. 19-65), and

an output unit for outputting the monitoring message (col. 5 ll. 19-65).

*Drysdale* discloses what *Hass* does not expressly disclose.

*Drysdale* discloses:

a receiving unit (Fig. 1, Console, 16) for receiving a despatch control message from a first application system (Fig. 1, Probe A) after despatch of a data packet from the first application system (Fig. 1, Probe A) to a second application system (Fig. 1, Probe B) (col. 13 ll. 45-67, col. 14 ll. 1-5).

The obvious rejection and suggestion/motivation is the same as in claim 1.

**As to claim 13,** *Hass* discloses a method of monitoring the data exchange between application systems comprising the steps:

checking a reception control message created by the second application system (14, recipient client; 20, client agent) after successful reception of the data packet (col. 5 ll. 14-24),

checking whether the data packet was received by the second application system successfully and within a predetermined transaction time on the basis of the despatch control message and the reception control message (col. 5 ll. 19-65),

creating a corresponding monitoring message (col. 6 ll. 30-45), and  
outputting the monitoring message from the monitoring unit (col. 6 ll. 41-45).

In particular, *Hass* teaches a sender (12, sender client) and its agent (20, client agent) transmit data via a server (18, server) and its agent (22, server agent) to a recipient (14, recipient agent). The server calculates how long it

should take to get a response from the recipient. If the server does get an acknowledgment in that time then a notification is sent out. Also, *Hass* teaches that the recipient will notify the server if it does successfully receives the data then it will send a notice to the server. Furthermore, *Hass* teaches that if the server is unable to communicate with the recipient then the server will notify the sender.

*Drysdale* discloses what *Hass* does not expressly disclose.

*Drysdale* discloses:

receiving a despatch control message from a first application system (Fig. 1, Probe A) after despatch of a data packet from the first application system (Fig. 1, Probe A) to a second application system (Fig. 1, Probe B) (col. 13 ll. 45-67, col. 14 ll. 1-5).

The obvious rejection and suggestion/motivation is the same as in claim 1.

**As to claim 14,** *Hass* discloses a computer program stored in a computer readable medium that is executable by a computer processor to perform the method when the computer program is executed on a computer (col. 13 ll. 15-45).

5. **Claims 3, 5, 6 and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,725,255 B1 to *Hass et al.* ("Hass") in view of U.S.

Patent No. 6,058,102 to *Drysdale et al.* ("Drysdale") in further view of U.S. Patent No. 6,958,977 B1 to *Mitrani et al.* ("Mitrani").

**As to claim 3,** *Hass and Drysdale* disclose a method of monitoring data exchange between application systems and the first and second application systems are not directly connected together but are indirectly connected together in particular by way of at least one further application system and/or transmission system as discussed in claim 1 and claim 2.

*Mitrani* discloses what *Hass and Drysdale* do not expressly disclose.

*Mitrani* discloses characterized in that the application and transmission systems (CCNAs, col. 3 ll. 20-25) connecting the first and second application systems also create reception and/or despatch control messages after successful reception and despatch respectively of the data packet and communicate same in particular to the monitoring unit (col. 7 ll. 48-65).

*Hass, Drysdale and Mitrani* are analogous arts because they are from the same field of endeavor with respect to monitoring data flow over a network.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate creating messages for successful reception and sending of data as discussed in *Mitrani* coupled with dispatching a control message to a monitoring unit after sending data to a second system as discussed in *Drysdale* within a method of monitoring data exchange between application systems as discussed in *Hass*. The suggestion/motivation would

have been a need to for a system to be able to discover where errors are occurring (*Mitrani*, col. 2 ll. 36-53).

**As to claim 5,** *Mitrani* discloses characterized in that rules concerning the transmission of data packets are predetermined ("transmitting one or more commands", col. 7 ll. 48-65) in the monitoring unit, in which rules it is specified which points (testing center transmit one or more comments to more of the CCNAS which is located in the network, col. 7 ll. 48-65; "packets having the specified bit pattern", col. 8 ll. 15-45) are to be monitored by the monitoring unit on the basis of the despatch and reception control messages (col. 8 ll. 7-46).

The obvious rejection and suggestion/motivation is the same as in claim 3.

**As to claim 6,** *Mitrani* discloses characterized in that measures to be taken for different kinds of data packets in the case of a negative result of points to be monitored, maximum transaction times, transmission paths and/or application systems from which control messages are expected are specified in the rules (col. 8 ll. 7-46).

The obvious rejection and suggestion/motivation is the same as in claim 3.

**As to claim 12,** *Mitrani* discloses further comprising a storage unit for storing predetermined rules ("transmitting one or more commands", col. 7 ll. 48-65) which relate to the transmission of data packets and in which it is defined

which points (testing center transmit one or more comments to more of the CCNAS which is located in the network, col. 7 ll. 48-65; "packets having the specified bit pattern", col. 8 ll. 15-45) are to be monitored by the monitoring unit on the basis of the despatch and reception control messages (col. 8 ll. 7-46).

The obvious rejection and suggestion/motivation is the same as in claim 3.

6. **Claim 4** is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6725255 B1 to *Hass et al.* ("*Hass*") in view of U.S. Patent No. 6,058,102 to *Drysdale et al.* ("*Drysdale*") in further view of U.S. Patent No. 6,636,893 B1 to *Fong* ("*Fong*").

**As to claim 4,** *Hass and Drysdale* disclose a method of monitoring data exchange between application systems as discussed in claim 1.

*Fong* discloses what *Hass and Drysdale* do not expressly disclose. However, *Fong* teaches the use of multiple communication protocols.

*Fong* discloses characterized in that the first and second application systems are different application systems and in particular use different data protocols (col. 7 ll. 50-67, col. 8 ll. 1-22).

*Hass, Drysdale and Fong* are analogous arts because they are from the same field of endeavor with respect to multiple systems communicating via a network.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate different protocols for the different

application systems as discussed in *Fong* coupled with dispatching a control message to a monitoring unit after sending data to a second system as discussed in *Drysdale* within a method of monitoring data exchange between application systems as discussed in *Hass*. The suggestion/motivation would have been a need to have universal system where applications using different protocols can communicate with one another (*Fong*, col. 7 ll. 50-67, col. 8 ll. 1-22).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. U.S. Patent No. 5,862,335 to Welch, Jr. et al. ("*Welch*") – *Welch* teaches the monitoring file transfers over a network. *Welch* teaches decides whether a packet is part of a current transmission or a new transmission and makes a record accordingly.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAYLOR ELFERVIG whose telephone number is (571) 270-5687. The examiner can normally be reached on Monday - Thursday, 9:00 am - 4:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrice Winder can be reached on (571) 272-3935. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrice Winder/  
Primary Examiner, Art Unit 2445

/T. E./  
Examiner, Art Unit 2445